

DECLARATION OF EMERGENCY**Department of Environmental Quality
Office of the Secretary****Expedited Permit Processing Program
(LAC 33:I.1801, 1803, 1805, 1807, and 1809) (OS073E1)**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement the expedited permit processing program.

Emergency Rule OS073E, which was effective on July 31, 2006, and published in the *Louisiana Register* on August 20, 2006, is hereby rescinded and is being reissued with amendments. This Emergency Rule, OS073E1, amends the original rule to further clarify the requirements of this new expedited permit processing program.

This Emergency Rule provides a program for expedited permit processing and implementation of the associated expedited permit processing fees authorized by Acts 586 and 779 of the 2006 Regular Legislative Session. These Acts allow for expedited processing of a permit at no additional cost to the department for overtime pay. This Emergency Rule will allow the department to implement a pilot program format to gather the information needed to draft a final rule. Specifically, the department will be able to evaluate the environmental and public health benefits and the social and economic costs of expedited permit processing and the associated fees. Moreover, rapid implementation of Acts 586 and 779 will allow the expedited permit processing program to begin immediately, enhancing economic growth. Many companies consider environmental permitting timelines in determining where to locate a proposed facility. Expedited permit processing allows companies to act more quickly in response to market demands and conditions.

This Emergency Rule is effective on September 11, 2006, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS073E1 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Adopted this 8th day of September, 2006.

Mike D. McDaniel, Ph.D.
Secretary

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 18. Expedited Permitting Processing Program

§1801. Scope

A. This Chapter establishes a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services. Expedited processing of a permit, modification, license, registration, or variance is an exercise of the discretion of the administrative authority and is subject to the availability of resources needed in order to process the permit, modification, license, registration, or variance.

B. ~~Eligibility and Priority~~

1. ~~To the extent practicable, requests proposing new construction that will result in the creation of new permanent jobs will be given highest consideration. An application for an initial permit or permit modification necessary for new construction as required by the Environmental Quality Act or regulation is eligible for expedited permit processing.~~

2. An applications for permit renewals and/or reconciliations are is not eligible for expedited processing pursuant to the provisions of this Chapter unless it is associated with new construction; results in new permanent jobs; includes increases in production which benefit the national, state, or local economy; or provides a direct benefit to the environment.

3. The applicant's failure to pay any outstanding fees owed to the department may be considered grounds for denial of a request for expedited permit processing. Applications for any permit, modification, license, registration, or variance needed to avoid or mitigate enforcement action are not eligible for expedited processing pursuant to the provisions of this Chapter.

C. To the extent practicable, requests proposing new construction or requests that will result in the creation of new permanent jobs will be given highest consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:**.

§1803. Procedures

A. Requests for expedited permit processing shall be submitted using the approved form. The approved form is available on the official website for the department. Hard copies may be obtained from the Office of Environmental Services, Environmental Assistance Division, Box 4313, Baton Rouge, LA 70821-4313. Contents of Request. An applicant requesting expedited processing of a permit, modification, license, registration, or variance shall furnish the following information:

1. ~~the requested time frame for a final permit decision;~~
2. ~~the basis and/or need for the request;~~

3. ~~_____ a commitment to provide any additional information required by the department as quickly as practicable;~~

4. ~~_____ after hours contact information, including the cell phone number and e-mail address, for the individual(s) responsible for providing technical information; and~~

5. ~~_____ the maximum expedited permitting fee, if any, the applicant is willing to remit in accordance with LAC 33:I.1805.~~

B. Within 10 working days after receipt of a request ~~to~~ for expedited processing of any permit, modification, license, registration, or variance ~~on an expedited basis, the administrative authority shall issue a final decision to grant or deny the expedited processing request shall be issued.~~

C. Requests for Additional Information

1. If at any time during the review process of an application ~~that has been determined complete the department~~ administrative authority finds determines that additional information is necessary, the ~~department~~ administrative authority shall ~~provide notice to~~ notify the applicant and require a response from the applicant within a reasonable, specified time.

2. The applicant shall respond ~~to the notice to the request for additional information~~ within the time specified by the administrative authority. Such a response shall contain all information required by the ~~department~~ administrative authority.

3. The ~~department~~ administrative authority reserves the right to cease expedited processing of the permit, modification, license, registration, or variance in accordance with the provisions of this Chapter if the applicant fails to supply the requested additional information ~~within by the~~ specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:**.

§1805. Fees

A. In addition to the fees charged pursuant to R.S. 30:2014, a fee shall be charged for each permit, modification, license, registration, or variance that is processed on an expedited basis in accordance with the provisions of this Chapter.

1. An appropriate fee shall be computed based on the maximum per hour overtime salary, including associated related benefits, of the civil service employee(s) of the department who perform(s) the work.

2. The fee shall be computed by multiplying the salary figure from ~~Subsection Paragraph~~ A.1 of this Section by every overtime hour or portion thereof that a department employee or contractor works on expedited processing of the ~~expedited~~ permit, modification, license, registration, or variance.

3. The applicant may request that the expedited permit processing ~~permitting~~ fee not exceed a maximum amount. If such a maximum amount is established, the number of overtime hours a department employee or contractor works processing the permit, modification, license, registration, or variance shall be limited accordingly. If further processing of the application is required, the department's continued review will not follow the provisions of this Chapter, and the request will no longer be handled on an expedited basis.

B. In the event that the administrative authority ceases processing a permit, modification, license, registration, or variance in accordance with LAC 33:I.1803.C.3 or Paragraph A.3 of this Section, a fee will be charged for every overtime hour or portion thereof that a department employee or contractor worked on expedited processing of the subject permit, modification, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:**.

§1807. Invoicing and Failure to Pay

A. An invoice for the expedited permit processing ~~permitting~~ fee shall be transmitted to the applicant after the administrative authority has made a final decision ~~has been made to grant or deny on the application~~ for the permit, modification, license, registration, or variance.

B. Failure to pay the expedited permit processing ~~permitting~~ fee by the due date specified on the invoice will constitute a violation of these regulations and shall subject the applicant to relevant enforcement action under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the permit, modification, license, registration, or variance.

C. A permit appeal, whether by the applicant or a third party, shall not stay the requirement to pay the expedited permit processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:**.

§1809. Public Notice and Availability of Records

A. Requirement to Provide Public Notice. The department shall provide notice of each permit, modification, license, registration, or variance that is processed pursuant to the provisions of this Chapter.

1. The notice of expedited permit processing shall be given by advertisement in a newspaper in the local area where the facility is located, in the official state journal, and by mail to persons included on the appropriate mailing list developed and maintained by the department, provided on the official website for the department.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, such public notice shall indicate that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter. ~~contain information relative to this Section.~~

3. ~~For permit actions not normally subject to public notice under other regulations or program requirements, the applicant shall be responsible for providing notice and shall bear all publication costs. Submission of proof of publication shall be required.~~

B. Contents of the Public Notice. ~~The advertisement for public notice shall contain the name and address of the permitting authority, the name and address of the applicant/permittee, the agency interest number, the name and parish in which the facility is physically located, the environmental media involved, the date the request for expedited processing was received, and the date of the decision to approve or deny the~~

~~request for expedited processing. of the affected facility, and a statement that the application is being or has been processed in accordance with the provisions of the Expedited Permitting Program.~~

C. Availability of Records. All recorded information (completed permit application form, fact sheet or statement of basis, draft and proposed permits, or any public document) not classified as confidential information under R.S. 30:2030(A) or 30:2074(D) and designated as such in accordance with applicable regulations shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:**.